

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
**In re:** : **Chapter 11**

**MOSDOS CHOFETZ CHAIM INC.,** : **Case No. 12-23616(rdd)**  
: **Post-Confirmation**

**Debtor.**

----- X  
**CONGREGANTS OF MOSDOS CHOFETZ CHAIM INC.**  
**A/K/A KIRYAS RADIN,** : **Adv. Pro. No. 21-07023**  
: **Plaintiff,**  
: **- against –**

**MOSDOS CHOFETZ CHAIM INC., CHOFETZ CHAIM INC.,** :  
**TBG RADIN LLC, SHEM OLAM, LLC, CONGREGATION**  
**RADIN DEVELOPMENT INC., ARYEH ZAKS, BEATRICE** :  
**WALDMAN ZAKS, MENDEL ZAKS, GITTEL ZAKS**  
**LAYOSH, ELIYAHU LAYOSH, SAMUEL MARKOWITZ,** :  
**DEBORAH ZAKS HILLMAN, YOM T. HENIG, STEVEN**  
**GREEN, DANIEL GREEN, ABRAHAM ZAKS and STERLING** :  
**NATIONAL BANK,**  
: **Defendants.**  
----- X

**SUMMARY OF MOVANTS' OBJECTIONS TO PORTIONS  
OF RESPONDENTS TRIAL DECLARATIONS**

Defendants Mosdos Chofetz Chaim, Inc., Chofetz Chaim Inc. and Congregation Radin Development Inc. (collectively, "Movants"), by and through their respective undersigned counsel, hereby set forth a summary of their objections to portions of the Trial Declarations proffered by Respondents for the hearing of Movants' motion for the issuance of monetary judgments for coercive sanctions previously imposed by the Court, for a finding of contempt and the imposition of punitive damages against certain individuals, and for additional contempt sanctions for future violations of the Court's prior Injunction. This summary is intended to point the Court to the portions objected to so that the Court can consider oral argument before the witnesses testify.

**OBJECTIONS**

**NOCHUM BRODY**

- 3 Last sentence (“CCI never had its own congregation) – no personal knowledge.
- 4 No personal knowledge, argument, not fact.
- 5 Legal arguments; conclusory.
- 6 Argumentative, no facts; conclusory.
- 7 Argumentative, except last sentence (“not as agent of Rabbi Mayer or the Plaintiffs”) not objected to.
- 9 Hearsay about other people; claims to set forth religious doctrine.
- 10 Relevance (dissertation about tradition).
- 12 Irrelevant; Hearsay as to “taken by the study groups.”
- 13 Irrelevant; hearsay – does to identify any person.
- 14 Irrelevant re: subpoena on Klugman.
- 15 Hearsay: “Upon information and belief.”
- 16 Hearsay, irrelevant.
- 17 Hearsay, irrelevant.
- 18 Irrelevant; professes to state Hebrew Law.
- 19 Irrelevant; argumentative – Obj to Exhibit B for reasons previously submitted.
- 21 Objection to what was previously stated not under oath and with no ability to cross-examine. Objection to reference to prior unsworn testimony. Obj to Exhibit C for reasons previously submitted.
- 22 Objection to what was previously stated not under oath and with no ability to cross-examine. Objection to reference to prior unsworn testimony. Obj to Exhibit D for reasons previously submitted.
- 23 Argumentative – Object To Ex E for reasons previously submitted.
- 24 Irrelevant; Argumentative – “Shows Inconsistencies of this Court in the Administration of this Case.” Object to Exhibit F (Shem Olam assignment) as being irrelevant for reasons previously submitted.
- 25 Objection to what was previously stated not under oath and with no ability to cross-examine. Objection to reference to prior unsworn testimony. Obj to Exhibit G – unsigned and expired “housing agreement” – for reasons previously submitted.

- 26 No objection to first 3 sentences. Objection to last two sentences as argumentative and hearsay allegation about what Rabbi Aryeh Zaks purportedly “knows.”
- 27 Objection to reference to “Eichel Declaration” which is not in evidence. Objection to Ex H – March 6, 2015 declaration of Rabbi Aryeh Zaks referring to “unsigned Rabbi Brody Agreement” – as irrelevant for reasons previously submitted..
- 28 Irrelevant, time period referred to not at issue here.
- 29 Irrelevant, the photographs referenced therein are not being offered in this case.
- 30 Irrelevant.
- 33 No objection to first sentence. Objection to last sentence and sub-paragraphs as based on hearsay (“Affirmant was not in attendance at the Synagogue when any of these incidents took place”).
- 34 Argumentative; asserts legal theory that “all Alleged Contemnors have occupancy rights ... that permit them to attend services at the synagogue and study at the Yeshiva.”

#### **SHIMON ZAKS**

- 2 Last sentence (“CCI never had its own congregation) – no personal knowledge.
- 3 No objection to first two sentences (although irrelevant). Object to last sentence based on no personal knowledge.
- 4 No personal knowledge, argument, not fact. Allegation of “fictitious lease” irrelevant, speculative and not based on any personal knowledge.
- 5 Irrelevant (who pays bills for the synagogue) – no documentary evidence of that.
- 6 Refers to declarations not offered at the hearing and cannot cross-examine those declarants. Objection to f/n 1 as being hearsay.
- 7 Hearsay speculation that lease to CCI not proper, refers to “investigation by Sterling Bank” which is hearsay and no Sterling Bank witness being produced. Object to Exhibit J (letter from Sterling Bank’s counsel) as hearsay and irrelevant for reasons previously submitted.
- 8 Object to Exhibit K – Real Property Tax exemption application – Irrelevant and incomplete (leaves out portion that states that CCI is tenant of building) for reasons previously submitted.. Argumentative, speculative and not based on any personal knowledge: lease to CCI “is nothing more than a larger scheme to inflate the rent roll by committing an outright bank fraud.”

- 9 Irrelevant, the June 11, 2021, entry is not being charged against Shimon Zaks. Object to Exhibit L (EZ Pass statement) as irrelevant and unclear for reasons previously submitted. Also, last sentence irrelevant, argumentative and not based upon personal knowledge: “At every turn Aryeh will lie, or if that is not enough, turn to fraud, as he has done in the Mosdos case which was never tried in court on its merits.”
- 10 Hearsay, not based on personal knowledge: “I have learned ...” Object to Exhibit I (letter from counsel for witness in another case) for reasons previously submitted. Contents of letter hearsay and, in any event, Mr. Doberman not being produced as witness.
- 11 Hearsay, not based on personal knowledge. Mr. Jacobowitz not being produced as witness.
- 12 Hearsay, Irrelevant (not being asserted at the evidentiary hearing).
- 13 Hearsay, Irrelevant (not being asserted at the evidentiary hearing).
- 14 Hearsay, Irrelevant (not being asserted at the evidentiary hearing).
- 15 Hearsay, Irrelevant.
- 16 Hearsay, Irrelevant.
- 17 Hearsay (“A Long-time congregant (for over 18 years) relayed to me ...).
- 18 Irrelevant, Hearsay, no personal knowledge, argumentative.
- 19 Hearsay, irrelevant, speculative. Footnote 6 irrelevant and argumentative. Footnote 7 irrelevant.
- 21 Hearsay as to “an act that the community would not tolerate”. Footnote 8, hearsay. Footnote 9, irrelevant as a purported statement of Jewish law.
- 22 Argumentative.
- 24 Hearsay.
- 26 No objection to the witness’ personal purported “belief.” Objection to Exhibits E and M as being irrelevant for reasons previously submitted.
- 27 Irrelevant, argumentative. Objection to Exhibit DE as irrelevant for reasons previously submitted. Specifically states that “the agreements are not “leases,” but were created to outline a series of campus rules ...”
- 28 Argumentative.
- 29 Hearsay.
- 30 Hearsay, argumentative.
- 31 Irrelevant, argumentative.

- 32 Argumentative.
- 33 Argumentative, purports to state the law.
- 34 Objection to 1<sup>st</sup> sentence as argumentative. No objection to second sentence.

**YISROEL HOCHMAN**

- 2 Objection to last sentence as conclusory (“As a member of the Kollel, my family and I are entitled to have, and actually occupy, a residence on the Kiryas Radin Campus.”).
- 3 Argumentative, purports to set forth applicable law.
- 6 No objection to 1<sup>st</sup> sentence. Objection to balance as argumentative and professes to state the law.

**FAIGY HOCHMAN**

- 6 Argumentative.
- 7 Hearsay, not based on personal knowledge (“I am informed that ...”).

**SIMA ZAKS**

- 6 Argumentative, purports to set forth the applicable law.
- 7 Conclusory.

**RABBI MAYER ZAKS**

- 3 Argumentative.
- 5 No objection to 1<sup>st</sup> sentence. Objection to second sentence as hearsay.
- 6 Irrelevant. [Discovery Issue].
- 7 Hearsay, except claim that he did not induce anyone to stop attending services.
- 8 Hearsay.

9 No objection to 1<sup>st</sup> sentence. Objection to balance as hearsay.

10 Conclusory.

Dated: August 2, 2021  
Edgemont, New York

**LEVINE & ASSOCIATES, P.C.**

By: s/ Michael Levine  
Michael Levine

15 Barclay Road  
Scarsdale, NY 10583  
Telephone (914) 600-4288  
Facsimile (914) 725-4778  
e-mail: ml@LevLaw.org  
*Attorneys for Defendants Mosdos and CCI*

**Tracy Klestadt, Esq.**

By: s/ Tracy Klestadt  
Tracy Klestadt

Klestadt Winters Jureller Southard & Stevens, LLP  
200 West 41st Street, 17th Floor  
New York, NY 10036-7203  
Telephone (212) 972-3000  
Facsimile (212) 972-2245  
Cell Phone (917) 607-7863  
Email: TKlestadt@Klestadt.com  
*Attorneys for CRDI*

**Kevin Nash, Esq.**

By: Kevin Nash  
Kevin Nash

Goldberg Weprin Finkel Goldstein LLP  
1501 Broadway, 22nd Floor  
New York, NY 10036  
Telephone (212) 221-5700  
Facsimile (212) 221-6532  
Cell Phone (516) 330-7107  
Email: knash@gwfglaw.com  
*Attorneys for Rabbi Aryeh Zaks*